

## REGIONAL GENERAL CONDITIONS FOR NATIONWIDE PERMITS

These conditions must be met for all projects authorized under NWPs in the State.

1. Mitigation or Restoration. Any activity or work authorized under these NWPs shall not adversely impact previously required Federal or State mitigation or restoration efforts.

2. Bog Systems. The use of NWPs is specifically prohibited in bog systems (as defined in the appendix of this public notice), except for projects provided coverage under NWP 34 -- Cranberry Production Activities.

3. Revegetation. Upon completion of the work in a wetland area, the site shall be replanted with native wetland vegetation during the next appropriate planting season. The applicant shall take appropriate measures to ensure revegetation success, as defined below.

The removal or destruction of existing shoreline (marine) or riparian (freshwater) vegetation shall be held to the absolute minimum needed for construction. Immediately following construction, shorelines or riparian zones affected by construction shall be replanted with native vegetation. The applicant shall take appropriate measures to ensure the success of the revegetation effort.

Success is defined as 80 percent of the planted area being covered with native species 5 years after construction is completed. If the percent of cover of native species does not equal or exceed 80 percent at the end of this 5-year period, remedial measures (e.g., replanting, soil amendments, additional monitoring, etc.) may be required until success is achieved.

Measures such as hydroseeding with annual or non-invasive grasses or groundcovers may be used for temporary erosion control.

4. National Wild and Scenic Rivers and Study Areas. The State and the EPA have denied 401 Certification for all proposed projects in National Wild and Scenic River and Study areas. An individual 401 Certification must be obtained for all projects in these areas, which currently include reaches of the following: the Klickitat, Skagit, Sauk, Suiattle, and White Salmon Rivers, and the Hanford Reach of the Columbia River.



# HYDRAULIC PROJECT APPROVAL

06RCW 75.20.160

State of Washington  
Department of Fish and Wildlife  
Region 4 Office  
16018 Mill Creek Boulevard  
Mill Creek, Washington 98012

**DATE OF ISSUE:** October 8, 1998

**LOG NUMBER:** 00-D2856-01

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
City of Seattle Parks Dept. ATTENTION: Kevin Stoops 2911 2 <sup>nd</sup> Avenue, 4 <sup>th</sup> Floor Seattle, Washington 98121 (206) 684-7139 Fax: (206) 233-3949	Not Applicable

**PROJECT DESCRIPTION:** Habitat Restoration of the Seaboard Lumber site.

**PROJECT LOCATION:** 4540 W. Marginal Way SW, Seattle

#	WRIA	WATER BODY	TRIBUTARY TO	1/4 SEC.	SEC.	TOWNSHIP	RANGE	COUNTY
1	09.MARI	Duamish Waterway	Elliott Bay	SW	18	24 North	06 East	King
2	09.MARI	Duamish Waterway	Elliott Bay	NW	19	24 North	06 East	King

NOTE: The restoration of the Seaboard Lumber site is a cooperative effort sponsored by the Elliott Bay /Duamish Restoration Program (EBDRP) - a consortium of governmental agencies and Tribes enlisted with authority under requirements of a Consent Decree settled by lawsuit in 1991. The lawsuit was filed by the National Oceanic and Atmospheric Administration (NOAA) against the City of Seattle and METRO for natural resources damages in Elliott Bay and the Duamish River from the operation of storm and sanitary sewer systems that discharge to these waters. In consideration of sponsorship, this project represents the policies that the agencies of the EBDRP recognize and strive to enforce. Therefore, it should be a first priority to the EBDRP to recognize these requirements before commencement of project activities based on whom these projects represent.

The Department of Fish and Wildlife (WDFW) discourages the use of pilings, lumber, and other materials treated with creosote and other wood preservatives and recommends instead the use of steel, concrete, or recycled plastic. In addition, WDFW prefers that all sources of non functional treated wood materials be removed from waters and bedlands of the state where it serves no justifiable purpose.

## PROVISIONS

1. **TIMING LIMITATIONS:** The project may begin **Immediately** and shall be completed by **October 8, 2003**.
  - a. Work below the ordinary high water line shall not occur from **April 1** through **June 14** of any year for the protection of migrating juvenile salmonids.
  - b. Work below the ordinary high water line shall not occur from July 1 through October 1 of any year for the protection of upstream migrant adult chinook.
2. **NOTIFICATION REQUIREMENT:** The permittee or contractor shall notify the Area Habitat Biologist (AHB) listed below of the project start date. Notification shall be received by the AHB at least three working days prior to



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the start of construction activities. The notification shall include the permittee's name, project location, starting date for work, and the control number for this Hydraulic Project Approval.

3. All treated wood products including pilings shall be removed from the site. Removal techniques shall result in total extraction and removal of the treated wood piling and debris. Piling may be replaced with an alternate material that is non treated, i.e., recycled plastic, cement, steel, non treated timber, etc.
4. All manmade debris on the beach shall be removed and disposed of upland such that it does not enter waters of the state.
5. The waterward face of the new imported rip rap that is proposed for maintaining the entrance to the created intertidal marsh habitat shall be minimized to the maximum extent practicable. The encroachment into the intertidal areas of the Duwamish shall be limited to no more than 6 feet waterward of the proposed Line of Ordinary High Water (LOHW), as indicated on the plans.
6. Any material recycled on site for use as fill material shall be monitored for contamination prior to entering waters of the state.
7. Recycled fill material for use in marine waters shall not have steel or any other foreign mix of construction debris besides cement.
8. A 6 inch layer of peagravel shall be placed along the entire section of imported rip rap and recycled cement debris, starting at +8.0 feet Mean High High Water) to the most waterward terminus of the imported rip rap and recycled cement. The peagravel shall be clean round wash rock, not more than ½ inch minus in diameter.
9. Performance criteria shall be maintained by the Wash Dept of Ecology (WDOE) to insure that Chemicals of Concern (COCs) do not migrate off site. If performance criteria indicates that COCs are migrating into marine waters, immediate measures shall be taken to excavate the COCs to an upland facility capable of disposal of contaminated waste.
10. Monitoring shall be conducted at the site to test for fish usage. Monitoring shall be conducted starting in March subsequent to the inwater portion of project completion, and a report sent to WDFW. Monitoring reports shall be provided on an annual basis to WDFW for a period of five years. At the conclusion of the fifth year, WDFW will determine if further efforts will be necessary to improve the site for fish usage. If convenient, monitoring may be conducted in conjunction with other site located in the lower Duwamish estuary under the supervision of the EBD RP.
11. The terminal ends of the imported rip rap shall be tapered back to the adjacent shoreline in order to minimize erosion to the adjacent property. The taper shall be approximately 30 degrees.
12. Rock for the bulkhead shall be composed of clean, angular material of a sufficient durability and size to prevent its being broken up or washed away by high water or wave action.
13. Bed material, other than material excavated for base rocks, shall not be utilized for project construction or fills below the Line of Ordinary High Water (LOHW).
14. Excavated materials shall not be stockpiled below the ordinary high water line.



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**06RCW 75.20.160**

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15. Beach area depressions created during project activities shall be reshaped to preproject beach level upon project completion.
16. All trenches, depressions, or holes created in the beach area shall be backfilled prior to inundation by tidal waters. Trenches excavated for base rocks may remain open during construction. However, fish shall be prevented from entering such trenches.
17. Project activities shall be conducted to minimize siltation of the beach area and bed.
18. Any in water excavation will require a silt curtain to contain any siltation to the vicinity of the site. The silt curtain shall be installed in a manner that shall minimize any potential to trap fish, and be capable of adapting to tidal fluctuations.
19. If a fish kill occurs or fish are observed in distress, the project activity shall immediately cease and WDFW Habitat Program shall be notified immediately.
20. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.
21. No petroleum products or other deleterious materials shall enter surface waters.
22. Project activities shall not degrade water quality to the detriment of fish life.

**SEPA:** DNS by City of Seattle, final on August 8, 1998.

**APPLICATION ACCEPTED:** September 23, 1998      **ENFORCEMENT OFFICER:** Frame #124 [P3]

John F. Boettner (425) 379-2306  
Area Habitat Biologist

**for Director  
WDFW**

cc: Ted Muller, WDFW Region 4  
Curtiss Tanner, USFWS, Lacey  
Robert Clark, NOAA Restoration Service, Sand Pt., Seattle

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**GENERAL PROVISIONS**

This Hydraulic Project Approval (HPA) pertains only to the provisions of the Fisheries Code (RCW 75.20). Additional authorization from other public agencies may be necessary for this project.

This HPA shall be available on the job site at all times and all its provisions followed by the permittee and operator(s) performing the work.



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This HPA does not authorize trespass.

The person(s) to whom this HPA is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this HPA.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All HPAs issued pursuant to RCW 75.20.100 or 75.20.160 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The permittee has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All HPAs issued pursuant to RCW 75.20.103 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the permittee: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 75.20.130.

### **APPEALS - GENERAL INFORMATION**

IF YOU WISH TO APPEAL A DENIAL OF OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

**A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.100, 75.20.103, 75.20.106, AND 75.20.160:**

A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA; or
- (B) An order imposing civil penalties.

It is recommended that an aggrieved party contact the Area Habitat Biologist and discuss the concerns. Most problems are resolved at this level, but if not, you may elevate your concerns to his/her supervisor. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a HPA or receipt of an order imposing civil penalties. The 30-day time requirement may be stayed by the Department if negotiations are occurring between the aggrieved party and the Area Habitat Biologist and/or his/her supervisor. The Habitat Protection Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or its designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

**B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.100 OR 75.20.106:**

A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA;
- (B) An order imposing civil penalties; or
- (C) Any other "agency action" for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, shall be plainly labeled as "REQUEST FOR FORMAL APPEAL" and shall be RECEIVED DURING OFFICE HOURS by the Department within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

**C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.103 or 75.20.160:**

A person who is aggrieved or adversely affected by the denial or issuance of a HPA, or the conditions or provisions made part of a HPA may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board



## HYDRAULIC PROJECT APPROVAL

06RCW 75.20.160

State of Washington  
Department of Fish and Wildlife  
Region 4 Office  
16018 Mill Creek Boulevard  
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per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459 6327.

- D. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.



State of Washington  
**DEPARTMENT OF FISH AND WILDLIFE**  
Region 4 Office: 16018 Mill Creek Boulevard - Mill Creek, Washington 98012 - (425) 775-1311

October 8, 1998

City of Seattle Parks Dept.  
ATTENTION: Kevin Stoops  
2911 Second Avenue  
Seattle, Washington 98121  
(206) 684-7053  
Fax: (206) 233-3949  
Dear Mr. Stoops:

**SUBJECT: Seaboard Lumber Restoration Site; Hydraulic Project Approval (HPA), Control No. 00-D2856-02, Duwamish Waterway, Tributary to Elliott Bay, Sections 18&19, Township 24 North, Range 06 East, King County, WRIA 09.0001**

A copy of the Hydraulic Project Approval (HPA) has been enclosed for your benefit. Unfortunately, this HPA does not include provisions for the placement of a revetment for the purposes of containment of Chemicals of Concern (COCs).

Of all of the discussions on this project that this Area Habitat Biologist (AHB) has been party to, the subject of source control of contaminants has never been an issue. Source control of contamination carries a whole different set of conditions which were never adequately addressed in any of these meetings, and I tried to make a presence at them several times (including a site inspection).

As an AHB, I have a concern with maintain some level of consistency with how WDFW implements the conditions of the HPA to any proponent. WDFW would have many concerns about this type of proposal from any proponent. The only thing that makes this project more acceptable to WDFW is the wetland creation that will result, and the removal of creosote piling, however, the nature of this project is one that will set a precedent for everyone out there that needs the same type of liability protection.

On the subject of buttress fills for the containment of COCs, this AHB has been in constant battles with many parties on these kinds of issue throughout my tenure as an AHB. One major concern I have about this kind of application is the need to encroach so far into the intertidal estuary, this activity alone can have a major impact on the adjacent properties as well as the estuary itself (not all of which are obvious). Another concern is the universal use of rip rap, especially for applications such as this. I am very familiar with the use of rip rap throughout Puget Sound, also the uses of it for containment of COCs, and have some serious questions as to

Mr. Stoops  
October 8, 1998  
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the adequacy of this material for source control of contaminants, especially long term. There is very little known about the interaction between groundwater, saltwater intrusion, and the tendency for erosional forces to act on the first-most yielding surface beyond the rock face for which water can come in contact. Not to mention the erosional forces that will result on the adjacent shorelines. These are just a few of the problems that exist from a standpoint of long-term viability of the project for what it was designed. Engineered designs for these facilities have failed before, it is useless to continue these practices if they result these types of impacts, and still result in failure.

The first option is to excavate all of the soils of concern that are a liability. If this option is still not acceptable, there are options that provide for a rip rap cap, but minimize the amount of encroachment. One type of application was done in Commencement Bay, it was still not optimal in my opinion, and does not address many of my previous concerns, but it did minimize the encroachment into the intertidal area; Robert Clark is familiar with this project. This project was accomplished during the summer low tides, so you may have to work during the winter low tides at night.

Another alternative is to investigate whether this site is a location that was dredged historically. Perhaps there are options available for the beneficial uses of dredge spoils to place fill at this site, this will raise the grade to a level more suited to fish habitat, support any kind of erosion control system on the slope, serve as a cap for COCs, and possible even reduce the cost of the project.

This AHB regrets having to resort to these changes, but there are changes that can be made to accomplish what you want to do at Seaboard Lumber site. If this AHB is the reason of any loss of communication, I apologize.

You have the prerogative to appeal the HPA if you so choose, but I would suggest that you avoid that result, and simply ask for a modification to the existing HPA, and refer to this letter state what options you have chosen to resolve this issue. This would provide the quickest solution to your efforts.



10/13/98 15:46 FAX 206 684 0208  
OCT.13.1998 10:42AM 3:14 SEATTLE PARKS-2911

SEA PUBLIC UTILI  
TEL NO:

NO.596 P.12/12 004  
#300 P11

Mr. Stoops  
October 8, 1998  
Page 3

Thank you for the opportunity to provide this information. If you have any questions, please contact me at (425) 379-2306.

Sincerely,



John F. Boettner  
Area Habitat Biologist

JFB:jfb:(D2865.lt2)

Enclosure(s): Seaboard Lumber Restoration HPA

cc: Ted Muller, WDFW Region 4  
Curtis Tanner, USFWS, Lacey  
Robert Clark, NOAA Restoration Service, Sand Pt., Seattle

5. Commencement Bay. An individual permit is required for activities in the Commencement Bay Study Area (CBSA) previously authorized by the following NWP:

- NWP 13 -- Bank Stabilization.
- NWP 14 -- Road Crossing.
- NWP 23 -- Approved categorical exclusions.
- NWP 26 -- Headwaters and Isolated Waters Discharges.

All other NWPs are still applicable within the CBSA.

The CBSA is located near the southern end of Puget Sound's main basin at Tacoma, Pierce County, Washington. The CBSA extends from Brown's Point around the bay to Point Defiance and includes the commercial waterways, wetlands, and any other jurisdictional waters. From Point Defiance, the line runs southeast to State Route 7 (Pacific Avenue), then south to the centerline of I-5; then east (northbound lanes) along I-5 to the Puyallup River. The boundary extends 200 feet on either side of the Puyallup River southeast to the Clark Creek Road (Melroy) Bridge. From the Puyallup River, the boundary extends east along I-5 to 70th Avenue East. The line then returns to Brown's Point to the northwest, following the 100-foot contour elevation above sea level located east of Hylebos Creek and Marine View Drive.

6. Prohibited Work Times for Fish Protection. For compliance with National General Condition 11, in-water construction activities are prohibited to protect three species of salmon listed as threatened and endangered under the Endangered Species Act as follows:

Columbia River

Mouth to Bonneville Dam	March 1 - October 30
Bonneville Dam to John Day Dam	March 15 - November 15
Upstream of John Day Dam	April 1 - November 30

Snake River

Mouth to Hells Canyon Dam (ID)	March 1 - December 15
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Exceptions to these prohibited work times can be made by request to the Corps and approved by the NMFS.

Until specific timing restrictions are developed to protect salmonids and other fish species of concern in other river systems, please refer to the timing restrictions in the HPA for the project. Work outside the HPA timing restrictions must specifically be approved by the WDFW and the NMFS for waters with anadromous species or the WDFW and the USFWS for waters with resident species of fish.

7. Prohibited Work Times for Bald Eagle Protection. For compliance with National General Condition 11, the following construction activity prohibitions apply to protect bald eagles, listed as threatened under the Endangered Species Act:

a. No construction activity authorized under a NWP shall occur within 1/4 mile of an occupied bald eagle nest, nocturnal roost site, or wintering concentration area, within the following seasonal work prohibition times.

b. No construction activity authorized under a NWP shall occur within 1/2 mile BY LINE OF SIGHT of an occupied bald eagle nest or nocturnal roost site, within the following seasonal work prohibition times.

Work prohibition times: Bald eagle nesting occurs between January 1 and August 15 each year. Bald eagles are found at wintering areas between November 1 and March 31 each year. Exceptions to these prohibited work times can be made by request to the Corps and approved by the U.S. Fish and Wildlife Service (USFWS).

Contact the USFWS to determine if a bald eagle nest, nocturnal roost, or wintering concentration occurs near your proposed project:

West of Cascades, Olympia Office - (360) 753-9440  
East of Cascades, Moses Lake - (509) 765-6125, or  
Spokane - (509) 891-6839  
Mainstem of the Columbia River  
downstream from McNary Dam - (503) 231-6179

C:NWSPN97.ERT

CERTIFICATE OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT

Permit Number: 98-2-00166

Name of Permittee: SEATTLE PARKS DEPT

Date of Issuance: APR 28 1998

Upon completion of the activity authorized by this permit, sign this certification and return it to the following address:

Department of the Army  
U.S. Army Corps of Engineers  
Seattle District, Regulatory Branch  
Post Office Box 3755  
Seattle Washington 98125-3755

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers' representative. If you fail to comply with your authorization, your project is subject to suspension, modification, or revocation.

- ☐ The work authorized by the above referenced permit has been completed in accordance with the terms and conditions of your permit.
- ☐ The mitigation required (not including monitoring) by the above referenced permit has been completed in accordance with the terms and conditions of your permit.

\_\_\_\_\_  
Signature of Permittee

11 February 1997  
CLM7; B:CERTCOMP.97



U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

Restoration Center Northwest  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way, N.E.  
Seattle Washington 98115-0070

Elizabeth Holmes Garr, Habitat Branch Chief  
National Marine Fisheries Service - NOAA  
Environmental and Technical Services Division  
525 NE Oregon St., Suite 500  
Portland, Oregon 97232-2737

13 February 1998

Re: Requesting Notification of Threatened and Endangered Species or Critical Habitat Under  
NMFS Jurisdiction.

*Elizabeth*  
Dear Ms. Garr:

Site specific restoration plans and environmental assessments (EA) are being prepared for Elliott Bay and the lower Duwamish River, Puget Sound, Washington, under the federal natural resource trustee lead of NOAA. The restoration work is in accordance with the Elliott Bay/Duwamish River Restoration Program, a cooperative, inter-governmental program established under a consent decree to help restore natural resources injured by pollution. The geographic area of interest includes the waters and immediate shorelines of Elliott Bay, the Duwamish River, and the watershed encompassing the Duwamish and Green Rivers (see attached map).

As part of our environmental documentation and in compliance with the National Environmental Policy Act, we are requesting a listing of any threatened or endangered species or other significant natural feature known to exist in this region, including proposed or candidate species.

Thank you for your assistance in this request on behalf of the natural resource trustees.

Sincerely yours,

Robert C. Clark, Jr., Director

Attachment

cc. G. Siani, NOAA DARC, Seattle  
B. Norberg, F/NWO2

Voice (206) 526-4338/4348

FAX (206) 526-4321/6665





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
HABITAT PROGRAM/OLYMPIA FIELD OFFICE  
510 Desmond Drive SE/Suite 103  
LACEY, WASHINGTON 98503

March 2, 1998

Mr. Robert C. Clark Jr.  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way, N.E.  
Seattle, WA 98115-0070

Re: Species List Request for Elliott Bay and Duwamish and Green Rivers

Dear Mr. Clark:

The National Marine Fisheries Service (NMFS) has reviewed your February 13, 1998 letter requesting a list of threatened (T) and endangered (E) species for the proposed restoration plans and environmental assessments being prepared for Elliott Bay and the lower Duwamish River.

We have enclosed a list of those anadromous fish species that are listed as T or E, those that are proposed for listing, and those that are candidates for listing under the Endangered Species Act (ESA). This inventory only includes those anadromous species under NMFS' jurisdiction. The U.S. Fish and Wildlife Service should be consulted regarding the presence of species falling under their jurisdiction.

Presently, Puget Sound chinook salmon (*Oncorhynchus tshawytscha*) are proposed for listing as T. They are known to occur in the project area. It is also possible that Hood Canal summer chum salmon (*O. keta*) could be found in the marine areas of the project area. Also, please be aware that coho salmon (*O. kisutch*) and sea-run cutthroat trout (*O. clarki clarki*) may range in the project area and are candidate (C) species eligible for listing under the ESA. Although C species are not afforded protection under the ESA, it would be prudent to incorporate project design features that avoid or minimize impacts to anadromous fish resources should they become listed at a later date.

Other threatened and endangered species under NMFS' jurisdiction that could be present in the project vicinity are the stellar sea lion (*Eumetopias jubatus*), the humpback whale (*Megaptera novaengliae*), and leatherback sea turtle (*Dermochelys coriacea*). A list of threatened and endangered marine mammals and sea turtles that occur in Puget Sound is also enclosed.

Thank you for your inquiry for information pertaining to federally listed T and E species. Should you require additional information, please contact Mr. Gordon Zillges at (360) 753-9090 or at the letterhead address.

Sincerely,

Steven W. Landino  
Washington State Habitat Branch Chief

Enclosures



# ESA STATUS OF WEST COAST ANADROMOUS SALMONIDS, FEBRUARY 1998

Species	ESA Status (E=endangered, T=threatened, date is for FR publication)		
	Listed	Proposed	Candidate
Coho	1) Central CA (T - 10/96) 2) S.OR/N.CA (T - 5/97)	None	1) Puget Sound (7/95) 2) SW WA (7/95) 3) OR Coast (5/97)  Assessment of status of candidate ESUs due 12/98
Steelhead	1) S.CA (E - 8/97) 2) S./Central CA (T - 8/97) 3) Central CA (T - 8/97) 4) Upper Col. R. (E - 8/97) 5) Snake R. (T - 8/97)	1) CA Central Villy (E - 8/96) 2) N.CA (T - 8/96) 3) Klamth Mtns Prvc (T - 3/95) 4) OR Coast (T - 8/96) 5) L. Col. R. (T - 8/96) 6) Mid. Col. R. (T - 2/98) 7) Upper Willamette R. (T - 2/98)	
Chum	none	1) Hood Canal Summer (T - 2/98) 2) Columbia R. (T - 2/98)	
Chinook	1) Sac. R. winter (E - 1/94) 2) Snake R. fall (T - 4/92)* 3) Snake R. spg/summer (T)	1) Central Valley Spring (E - 2/98) 2) Central Valley Fall (T - 2/98) 3) S.Oregon and CA Coast (T - 2/98) 4) Puget Sound (T - 2/98) 5) Lower Columbia R. (T - 2/98) 6) Up. Willamette R. (T - 2/98) 7) Up. Col. R. Spring (E - 2/98) 8) Snake R. Fall (T-2/98)*	
Sockeye	1) Snake R. (E - 11/91)	1) Ozette Lake (T - 2/98)	1) Baker River (2/98)
Pink	none	none	none (all runs reviewed in 10/95 and none warranted for listing)
Sea-run Cutthroat	1) Umpqua R. (E - 8/96)	none	all populations that are not already listed (ESU definitions and initial listing determinations due 12/98)

\*Deschutes R. - fall chinook now included in this ESU and is proposed for listing. Other stocks in this ESU already listed.

ENDANGERED AND THREATENED MARINE MAMMALS  
AND SEA TURTLES  
UNDER THE JURISDICTION OF  
NATIONAL MARINE FISHERIES SERVICE  
THAT MAY OCCUR OFF WASHINGTON AND OREGON

MARINE MAMMALS

Humpback Whale	<i>Megaptera novaeangliae</i>
Blue Whale	<i>Balaenoptera musculus</i>
Fin Whale	<i>Balaenoptera physalus</i>
Sei Whale	<i>Balaenoptera borealis</i>
Sperm Whale	<i>Physeter macrocephalus</i>
Steller Sea Lion	<i>Eumetopias jubatus</i>

MARINE TURTLES

Leatherback Sea Turtle	<i>Dermochelys coriacea</i>
Loggerhead Sea Turtle	<i>Caretta caretta</i>

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ENDANGERED AND THREATENED MARINE MAMMALS  
AND SEA TURTLES  
UNDER THE JURISDICTION OF  
NATIONAL MARINE FISHERIES SERVICE  
THAT MAY OCCUR IN THE PUGET SOUND

MARINE MAMMALS

Humpback Whale	<i>Megaptera novaeangliae</i>
Steller Sea Lion	<i>Eumetopias jubatus</i>

MARINE TURTLES

Leatherback Sea Turtle	<i>Dermochelys coriacea</i>
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U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

Restoration Center Northwest  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way, N.E.  
Seattle Washington 98115-0070

Nancy Gloman, Assistant Director  
U.S. Fish and Wildlife Service  
North Pacific Coast Ecoregion  
510 Desmond Dr. S.E., Suite 102  
Lacey, Washington 98503-1273

13 February 1998

Re: Requesting Notification of Threatened and Endangered Species or Candidate Species

Dear Ms. Gloman:

Site specific restoration plans and environmental assessments (EA) are being prepared for Elliott Bay and the lower Duwamish River, Puget Sound, Washington, under the federal natural resource trustee lead of NOAA. The restoration work is in accordance with the Elliott Bay/Duwamish River Restoration Program, a cooperative, inter-governmental program established under a consent decree to help restore natural resources injured by pollution. The geographic area of interest includes the waters and immediate shorelines of Elliott Bay, the Duwamish River, and the watershed encompassing the Duwamish and Green Rivers (see attached map).

As part of our environmental documentation and in compliance with the National Environmental Policy Act, we are requesting a listing of any threatened or endangered species or other significant natural feature known to exist in this region, including proposed or candidate species.

Thank you for your assistance in this request on behalf of the natural resource trustees.

Sincerely yours,

Robert C. Clark, Jr., Director

**Attachment**

cc. G. Siani, NOAA DARC, Seattle  
C. Tanner, USF&WS

Voice (206) 526-4338/4348

FAX (206) 526-4321/6665





## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

North Pacific Coast Ecoregion  
Western Washington Office  
510 Desmond Drive SE, Suite 102  
Lacey, Washington 98503  
Phone: (360) 753-9440 Fax: (360) 753-9518

March 6, 1998

Robert C. Clark, Jr.  
Director  
U.S. Department of Commerce  
National Oceanic and Atmospheric Administration  
Restoration Center Northwest  
NMFS Northwest Regional Office, F/NWO  
7600 Sand Point Way, N.E.  
Seattle, Washington 98115-0070

FWS Reference: 1-3-98-SP-0146

Dear Mr. Clark:

This is in response to your letter dated February 13, 1998, and received in this office on February 18, 1998. You have requested a list of listed and proposed threatened and endangered species, candidate species and species of concern (Attachment A) that may be present within the area of the proposed Elliott Bay/Duwamish River restoration in King County, Washington. This response fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act of 1973, as amended (Act). We have also enclosed a copy of the requirements for National Oceanic and Atmospheric Administration (NOAA) compliance under the Act (Attachment B).

Should the NOAA determine that a listed species is likely to be affected (adversely or beneficially) by the project, you should request section 7 consultation through this office. If the NOAA determines that the proposed action is "not likely to adversely affect" a listed species, you should request Service concurrence with that determination through the informal consultation process. Even if there is a "no effect" situation, we would appreciate receiving a copy for our information.

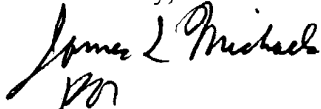
Species of concern are those species whose conservation standing is of concern to the Service, but for which further status information is still needed. Conservation measures for species of concern are voluntary, but recommended. Protection provided to these species now may preclude possible listing in the future.

There may be other federally listed species that may occur in the vicinity of your project which are under the jurisdiction of the National Marine Fisheries Service (NMFS). Please contact NMFS at 360/753-9530 to request a species list.

In addition, please be advised that federal and state regulations may require permits in areas where wetlands are identified. You should contact the Seattle District of the U.S. Army Corps of Engineers for federal permit requirements and the Washington State Department of Ecology for state permit requirements.

Your interest in endangered species is appreciated. If you have additional questions regarding your responsibilities under the Act, please contact Bobbi Barrera (360/753-6048) or John Grettenberger of this office at the letterhead phone/address.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. Gloman".

Nancy J. Gloman  
Acting Supervisor

bb/br  
Enclosure

SE/NOAA/1-3-98-SP-0146/King

c: NOAA  
WDFW, Region 4  
WNHP, Olympia

## ATTACHMENT A

### LISTED AND PROPOSED ENDANGERED AND THREATENED SPECIES, CANDIDATE SPECIES AND SPECIES OF CONCERN WHICH MAY OCCUR WITHIN THE VICINITY OF THE PROPOSED ELLIOTT BAY/DUWAMISH RIVER RESTORATION IN KING COUNTY, WASHINGTON

(T25N R04E S01;T24N R03E S03;T24N R04E S18;T23N R04E S04)

FWS REF: 1-3-98-SP-0146

#### LISTED

Bald eagle (*Haliaeetus leucocephalus*) - there is one bald eagle nesting territory located in the vicinity of the project at T24N R03E S11. Nesting activities occur from January 1 through August 15.

Wintering bald eagles may occur in the vicinity of the project. Wintering activities occur from October 31 through March 1.

Marbled murrelet (*Brachyramphus marmoratus marmoratus*) - may occur in the vicinity of the project.

Peregrine falcon (*Falco peregrinus*) - there is one peregrine falcon eyrie located on the Washington Mutual Tower, downtown Seattle.

Spring and fall migrant peregrine falcons may occur in the vicinity of the project.

Major concerns that should be addressed in your biological assessment of the project impacts to listed species are:

1. Level of use of the project area by listed species.
2. Effect of the project on listed species' primary food stocks, prey species, and foraging areas in all areas influenced by the project.
3. Impacts from project construction (i.e., habitat loss, increased noise levels, increased human activity) which may result in disturbance to listed species
4. and/or their avoidance of the project area.

## **PROPOSED**

None

## **CANDIDATE**

None

## **SPECIES OF CONCERN**

The following species of concern may occur in the vicinity of the project:

Bull trout (*Salvelinus confluentus*) - Coastal/Puget Sound population

Long-eared myotis (*Myotis evotis*)

Long-legged myotis (*Myotis volans*)

Pacific lamprey (*Lampetra tridentata*)

Pacific Townsend's big-eared bat (*Corynorhinus townsendii townsendii*)

River lamprey (*Lampetra ayresi*)

## **ATTACHMENT B**

### **FEDERAL AGENCIES' RESPONSIBILITIES UNDER SECTIONS 7(a) AND 7(C) OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED**

#### **SECTION 7(a) - Consultation/Conference**

- Requires: 1. Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species;
2. Consultation with FWS when a federal action may affect a listed endangered or threatened species to ensure that any action authorized, funded, or carried out by a federal agency is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The process is initiated by the federal agency after it has determined if its action may affect (adversely or beneficially) a listed species; and
3. Conference with FWS when a federal action is likely to jeopardize the continued existence of a proposed species or result in destruction or an adverse modification of proposed critical habitat.

#### **SECTION 7(c) - Biological Assessment for Construction Projects \***

Requires federal agencies or their designees to prepare a Biological Assessment (BA) for construction projects only. The purpose of the BA is to identify any proposed and/or listed species which is/are likely to be affected by a construction project. The process is initiated by a federal agency in requesting a list of proposed and listed threatened and endangered species (list attached). The BA should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable). If the BA is not initiated within 90 days of receipt of the species list, please verify the accuracy of the list with our Service. No irreversible commitment of resources is to be made during the BA process which would result in violation of the requirements under Section 7(a) of the Act. Planning, design, and administrative actions may be taken, however, no construction may begin.

To complete the BA, your agency or its designee should: (1) conduct an onsite inspection of the area to be affected by the proposal, which may include a detailed survey of the area to determine if the species is present and whether suitable habitat exists for either expanding the existing population or potential reintroduction of the species; (2) review literature and scientific data to determine species distribution, habitat needs, and other biological requirements; (3) interview experts including those within the FWS, National Marine Fisheries Service, state conservation department, universities, and others who may have data not yet published in scientific literature; (4) review and analyze the effects of the proposal on the species in terms of individuals and populations, including consideration of cumulative effects of the proposal on the species and its habitat; (5) analyze alternative actions that may provide conservation measures; and (6) prepare a report documenting the results, including a discussion of study methods used, any problems encountered, and other relevant information. Upon completion, the report should be forwarded to our Endangered Species Division, 3704 Griffin Lane SE, Suite 102, Olympia, WA 98501-2192.

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\* "Construction project" means any major federal action which significantly affects the quality of the human environment (requiring an EIS), designed primarily to result in the building or erection of human-made structures such as dams, buildings, roads, pipelines, channels, and the like. This includes federal action such as permits, grants, licenses, or other forms of federal authorization or approval which may result in construction.



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**

**Restoration Center Northwest**  
**NMFS Northwest Regional Office F/NWO**  
**7600 Sand Point Way, N.E.**  
**Seattle Washington 98115-0070**

Bobbi Barrera  
U.S. Fish and Wildlife Service  
North Pacific Coast Ecoregion  
510 Desmond Dr. S.E., Suite 102  
Lacey, Washington 98503-1273

May 7, 1998

Re: ESA Consultation for the Seaboard Lumber Site, Seattle, WA.

Dear Ms. Barrera:

The environmental assessment (EA) for the Seaboard Lumber Site Aquatic Habitat Restoration Project is nearing completion under the federal natural resource lead of the National Oceanic and Atmospheric Administration (NOAA). The proposed restoration work is in accordance with the Elliott Bay/Duwamish River Restoration Program (EBDRP), a cooperative, inter-governmental program that includes the U.S. Fish and Wildlife Service (USFWS). The program was established under a consent decree to help restore natural resources injured by pollution. The geographic area of interest of the program includes the waters and immediate shorelines of Elliott Bay, the Duwamish River, and the watershed encompassing the Duwamish and Green Rivers.

Construction work on the project (see the attached draft EA for the site location, maps, and other relevant information) is scheduled to begin on the upland portion of the site during August, 1998, and is expected to continue for approximately one year. No in-water work will occur during the fish migratory windows for the Duwamish River regulated by the State of Washington. The Corps of Engineers has received a request for a 404 permit, and is currently reviewing the proposed project.

As part of our environmental documentation and in compliance with the Endangered Species Act, we have reviewed the "Listed and Proposed Endangered and Threatened Species, Candidate Species and Species of Concern" list provided by your office in a letter dated March 6, 1998. Our analysis of all relevant information is that the Seaboard Lumber Site Aquatic Habitat Restoration Project will have no adverse affects on the listed, proposed endangered, or threatened species listed in the letter. The project will, over many years as the site matures, potentially benefit species by adding habitat and food sources to the last remaining oxbow area of the Duwamish River.

The biological assessments required in the March 6th letter were performed at the site over the past several years during the site selection process, or in conjunction with the adjacent T-107

Voice (206) 526-4338/4348

FAX (206) 526-4321/6665



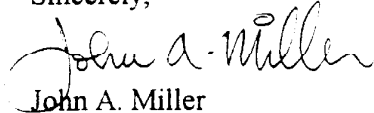
restoration site completed by the Port of Seattle. The attached draft copy of the EA describes the Seaboard Lumber site, describes proposed alternatives and the preferred alternative, references the appropriate reports, and provides an analysis of the contracted biological assessments that were made during the site selection and design process.

On your recommendation (phone conversation on May 7, 1998), I contacted Mr. Tom Owens, Washington Department of Fish and Wildlife, requesting information on the bald eagle nesting sites in the vicinity. Based on his information (attached), the Seaboard Lumber site is approximately 2 miles southeast of the only known nest in the area (bald eagle territory occurrence 1023), and approximately 1/2 mile south of the southern edge of the marked bald eagle territory. Our conclusion is that construction activities will have no impact to the bald eagles that inhabit territory 1023. Any wintering bald eagles, migratory peregrine falcons, or marbled murrelets that incidentally come near the construction site potentially could be impacted by noise from machinery. This would be a short-term impact with no lasting effects.

We are currently consulting with the appropriate National Marine Fisheries Service (NMFS) office to address the same documentation about endangered species that fall under the NMFS jurisdiction.

To complete our NEPA documentation, please respond back with your agency's conclusions (or concurrence) of our findings of no impact to the listed, proposed endangered, or threatened species. If you need additional information, please contact Mr. Curtis Tanner, USFWS, (360-753-4326), who is the USFWS representative on the EBD RP Panel, or contact me at the above address. Thank you for your assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Miller". The signature is fluid and cursive, with the first name "John" being more prominent.

John A. Miller

NOAA Restoration Center NW

Attachments

cc: C. Tanner, USFWS





## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

North Pacific Coast Ecoregion  
Western Washington Office  
510 Desmond Drive SE, Suite 102  
Lacey, Washington 98503  
Phone: (360) 753-9440 Fax: (360) 753-9008

June 22, 1998

John A. Miller  
U.S. Department of Commerce  
Restoration Center Northwest  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way, N.E.  
Seattle, WA 98115-0070

FWS Reference: 1-3-98-I-0264  
X-Reference: 1-3-98-SP-0146

Dear Mr. Miller:

This responds to your request for informal consultation on the proposed Seaboard Lumber Site Aquatic Habitat Restoration project in King County, Washington. Your cover letter dated June 18, 1998, and Environmental Assessment (EA) dated April 10, 1998, were received in this office on June 18 and May 11, 1998, respectively. In your letter you request U.S. Fish and Wildlife Service (Service) concurrence with your determination of "may affect, not likely to adversely affect" on bald eagle (*Haliaeetus leucocephalus*), peregrine falcon (*Falco peregrinus*) and marbled murrelet (*Brachyramphus marmoratus marmoratus*) in accordance with section 7(a)(2) of the Endangered Species Act of 1973, as amended (Act)(16 U.S.C. 1531 et seq.).

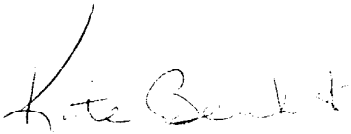
The purpose of the project is to restore natural resources injured by pollution in Elliott Bay and the lower Duwamish River. The project will include excavating an intertidal basin, constructing shoreline protection, and introducing aquatic and upland habitat improvements. Proposed construction will require the removal of existing concrete pads, pavements, railroad spurs, an existing dock, extensive regrading, installing plantings to establish an emergent intertidal marsh, the construction of a small parking lot, crushed rock pathways and an informational kiosk. Construction work is scheduled to begin on the upland portion of the site during August 1998, and is expected to continue for approximately 1 year. No in-water work will occur during the fish migratory windows for the Duwamish River.

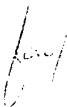
The Service concurs that the proposed project, as described in the EA, is not likely to adversely affect the bald eagle, peregrine falcon or marbled murrelet. Our concurrence is based on information and conservation measures described in your letter and EA, our telephone conversations of June 15, 1998, and conversations with Service biologist, Curtis Tanner, on June 6, 1998.

This concludes informal consultation pursuant to the regulations implementing the Act, 50 CFR Section 402.13. This project should be re-analyzed if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this consultation; if the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation; and/or if a new species is listed or critical habitat is designated that may be affected by this project.

If you have further questions about this letter or your responsibilities under the Act, please contact Bobbi Barrera at (360) 753-6048, or Jim Michaels at (360) 753-7767, of this office.

Sincerely,



 Nancy J. Gloman  
Acting Supervisor

BB/jko

c: WDFW, Region 4  
WNHP, Olympia



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

North Pacific Coast Ecoregion  
Western Washington Office  
510 Desmond Drive SE, Suite 102  
Lacey, Washington 98503  
Phone: (360) 753-9440 Fax: (360) 753-9008

August 20, 1998

Dr. Robert C. Clark, Jr.  
National Oceanic and Atmospheric Administration  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way NE  
Seattle, WA 98115-0070

Re: Final Draft Environmental Assessment  
Seaboard Lumber Site Aquatic Habitat Restoration Project, Seattle, Washington

Dear Dr. Clark:

We have completed our review of the above referenced Environmental Assessment (EA). Comments provided by us on previous drafts appear to have been addressed in the Final Draft EA. We have no additional changes to suggest for the document, and offer the following comments:

1. We concur with selection of the preferred alternative as identified in the EA, and support project implementation.
2. As a Cooperating Federal Agency, we would concur with a Finding of No Significant Impact for the project.

We appreciate both the opportunity to provide input on the EA, and your taking the lead to prepare the document. If you require additional information or assistance on this matter, please contact Curtis Tanner of my staff at (360) 753-4326.

Sincerely,

Nancy Gloman  
Acting Supervisor

ct/vjr

c: Don Steffeck, USFWS Division of Environmental Contaminants  
Kevin Stoops, Seattle Department of Parks and Recreation



U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

Restoration Center Northwest  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way, N.E.  
Seattle Washington 98115-0070

20 July 1998

Craig Johnson PR-5  
National Marine Fisheries Service  
National Oceanic and Atmospheric Admin.  
1315 East-West Highway  
Silver Spring MD

Dear Mr. Johnson:

Upon review of the enclosed Environmental Assessment for the Seaboard Lumber Site Aquatic Habitat Restoration Project, I have evaluated this project as not likely to jeopardize the continued existence of the Puget Sound Chinook salmon ESU. As an integral member of the Elliott Bay/Duwamish Restoration Program (EB/DRP), NOAA is seeking informal conferencing for Puget Sound Chinook salmon nominated for consideration on 26 February 1998 under the Endangered Species Act.

This proposed project under the 1991 EB/DRP settlement is specifically committed to restoring habitats of injured natural resources, which in the Duwamish River system translates largely to salmon. The EB/DRP Concept Document recognizes the need to restore lost salmon habitat (p. 48ff) as a principal goal of habitat development. This project will recreate 1.8 acres of upper intertidal marsh habitat by excavating previously filled industrial uplands. This is especially beneficial to juvenile outmigrant Chinook salmon in light of the 98% loss of emergent marshes and tideflats during the past century in this portion of the lower Duwamish River. This project will provide desperately-needed soft bottom, offchannel, intertidal environment necessary for feeding, acclimating to salt water, and finding protection from predation.

In-water construction schedules are based on times when few salmon will be in this area. The construction will observe seasonal conditions established by the Washington Department of Fish and Wildlife in their Hydraulic Project Approval and universally supported by the National Marine Fisheries Service. Therefore, short-term impacts of temporary turbidity, excavation releases, noise, and emissions from construction vehicles, if they occur, should not coincide with the normal presence of potentially threatened Chinook salmon at this site.



Voice (206) 526-4338/4348

FAX (206) 526-4321/6665



U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

Restoration Center Northwest  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way, N.E.  
Seattle Washington 98115-0070

We appreciate your intraagency concurrence on this finding.

Sincerely yours,

Robert C. Clark, Jr.  
Director

c c EB/DRP Members  
Olympia Field Office (Zilges)

Voice (206) 526-4338/4348

FAX (206) 526-4321/6665



October 1, 1998

**Memorandum**

**To:** Russ Belmer, F/HCD, National Marine Fisheries Service, Silver Spring, Maryland  
**From:** Craig Johnson, F/PR3, National Marine Fisheries Service, Silver Spring, Maryland  
**Subject:** Proposed Seaboard Lumber Site Aquatic Habitat Restoration Project

I have reviewed your undated memorandum requesting requesting concurrence that the proposed Seaboard Lumber Site Aquatic Habitat Restoration Project is not likely to adversely affect the Puget Sound chinook salmon (*Onchorynchus tshawytscha*), which has been proposed for listing as a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533 *et seq.*; ESA).

Your memorandum stated that the proposed project will recreate 1.8 acres of upper intertidal marsh habitat (by excavating previously filled industrial uplands) providing soft bottom, offchannel, intertidal environment necessary for feeding, acclimating to salt water, and predation protection. Your memorandum also stated that the proposed action may produce short-term minor temporary impacts associated with turbidity, excavation releases, noise, and emissions from construction vehicles, but those impact will not coincide with the presence of Chinook salmon at the site. Based on this information, I concur with your determination that the proposed restoration project is not likely to adversely affect the Puget Sound chinook salmon.

This concludes informal consultation on the proposed Seaboard Lumber Site Aquatic Habitat Restoration Project pursuant to section 7 of the ESA (16 U.S.C. 1536). If you have any questions or concerns about this consultation or the consultation process in general, please feel free to contact me.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Office of the Under Secretary for**  
**Oceans and Atmosphere**  
Washington, D.C. 20230

007 26

To All Interested Government Agencies and Public Groups

Pursuant to the National Environmental Policy Act, an environmental review has been performed on the following action:

**TITLE:** Seaboard Lumber Site Aquatic Habitat Restoration Project  
Environmental Assessment and Finding Of No Significant Impact

**LOCATION:** Duwamish River, Seattle, Washington

**SUMMARY:** The purpose of preparing the Environmental Assessment (EA) is to coordinate and implement sediment remediation projects under the Elliott Bay/Duwamish Restoration Program (EB/DRP). The EA assembled five remediation alternatives based upon best available technology. These alternatives were evaluated by representatives from the Natural Resource Agencies (NOAA, USFWS, the Muckleshoot and Suquamish Tribes and Washington State).

The Natural Resource Trustees have concluded that the preferred alternative is the partial removal of areas of residual contamination, moderate upland excavation and intertidal filling with protective spits. This alternative best meets the goals and principles of Natural Resource Trustees by maximizing ecological benefits and minimizing potential impacts to the environment.

**RESPONSIBLE** Rolland A. Schmitten  
**OFFICIAL** Assistant Administrator for Fisheries  
National Marine Fisheries Service  
Silver Spring Metro Center #3  
1315 East-West Highway  
Silver Spring, Maryland 20910-3226  
Phone: (301) 713-2239

The environmental review process led us to conclude that these remedial actions will not have a significant effect on the human environment. Therefore, an environmental impact statement will not be prepared. A copy of the Finding Of No Significant Impact including the EA is enclosed for your information.

Sincerely,

*Susan B. Fruchter*  
for Susan B. Fruchter  
Acting NEPA  
Coordinator

Attachments



FINDING OF NO SIGNIFICANT IMPACT  
THE ENVIRONMENTAL ASSESSMENT  
FOR THE  
SEABOARD LUMBER SITE AQUATIC HABITAT RESTORATION PROJECT  
DUWAMISH RIVER, SEATTLE, WASHINGTON

The National Oceanic and Atmospheric Administration (NOAA), participating as one of the Elliott Bay/Duwamish River, Seattle, Washington, Natural Resource Trustees (U.S. Fish and Wildlife Service of the Department of the Interior, the State of Washington, the Muckleshoot Indian Tribe, and the Suquamish Tribe) in a joint potentially responsible party/Trustee settlement implementation panel, is the lead Federal trustee for NEPA compliance issues related to Seaboard Lumber Site Aquatic Habitat Restoration Project conducted under the settlement. NOAA has completed an Environmental Assessment (EA) for a proposed aquatic habitat restoration project at the Seaboard Lumber Site in the Duwamish River, Seattle, Washington. The EA includes six restoration alternatives including the "no action" alternative based upon best available technology and the goals and objectives of the Trustees to restore aquatic habitat. The preferred alternative, alternative 6, is the partial removal of areas of residual contamination, moderate upland excavation and intertidal filling with protective spits.

These alternatives, including the preferred alternative, were evaluated by parties to the settlement through various processes, including drafting a Concept Document, holding public meetings and providing opportunities for the public to comment, and participating in the State of Washington's environmental review process. The panel documentation for this project is incorporated herein by reference.

DETERMINATION

Based upon an environmental review and evaluation of the EA for this project, I find that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. Therefore, preparation of an environmental impact statement is not required for this project.

*for* Richard H. Schmitt  
Rolland A. Schmitt

Assistant Administrator for Fisheries  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration

10/26/98  
Date





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE

October 26, 1998

MEMORANDUM FOR: Susan B. Fruchter  
Acting NEPA Coordinator  
FROM: *Richard H. Schmitt*  
for Rolland A. Schmitt  
SUBJECT: Seaboard Lumber Site Aquatic Habitat  
Restoration Project Environmental Assessment  
and Finding of No Significant Impact

The National Oceanic and Atmospheric Administration (NOAA), as lead agency for National Environmental Policy Act (NEPA) compliance, in cooperation with the U.S. Fish and Wildlife Service (USFWS), on behalf of the Department of the Interior (DOI), have prepared an Environmental Assessment (EA) for aquatic habitat restoration at the Seaboard Lumber Site, Duwamish River, Seattle, Washington. Cooperating agencies include the Natural Resource Trustees: the Muckleshoot Indian Tribe, Suquamish Tribe, the Washington State Department of Ecology, as well as the City of Seattle and King County Department of Natural Resources because of their specialized expertise. The EA assembled five restoration alternatives evaluated by representatives from the Natural Resource Agencies (NOAA, USFWS, the Muckleshoot and Suquamish Tribes and the Washington State Department of Ecology). The Natural Resource Trustees have concluded that the preferred alternative is the partial removal of areas of residual contamination, moderate upland excavation and intertidal filling with protective spits. This alternative best meets the goals and principles of Natural Resource Trustees by maximizing ecological benefits and minimizing potential impacts to the environment.

The environmental review process led us to conclude that this restoration action will not have a significant effect on the human environment. Therefore, an environmental impact statement will not be prepared.

Based on the subject Environmental Assessment, I have determined that no significant impacts will result from the proposed actions. I request your concurrence in this determination by signing below. Please return this memorandum for our files.

I concur. *Richard H. Schmitt* for Susan Fruchter 10/26/98  
Date

I do not concur. \_\_\_\_\_  
Date





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE

October 26, 1998

MEMORANDUM FOR: F - Rolland A. Schmitten  
FROM: *for* F/HC - *Barry H. Mayer* Joseph R. Blum  
SUBJECT: Environmental Assessment and Finding of No  
Significant Impact Seaboard Lumber Site Aquatic  
Habitat Restoration Project, Duwamish River,  
Seattle, Washington.

The National Oceanic and Atmospheric Administration (NOAA) as lead agency, the U.S. Fish and Wildlife Service on behalf of the Department of the Interior (DOI), the Muckleshoot Indian Tribe, the Suquamish Tribe of Indians and the State of Washington have completed a Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Seaboard Lumber Site Aquatic Habitat Restoration Project, Duwamish River, Seattle, Washington. The project is proposed under the Elliott Bay/Duwamish Restoration Program (EB/DRP), a cooperative, intergovernmental program established under a Consent Decree to help restore natural resources injured by pollution in Elliott Bay and the Duwamish River.

The EA assembled five restoration alternatives evaluated by representatives from the Natural Resource Agencies (NOAA, USFWS, the Muckleshoot and Suquamish Tribes and the Washington State Department of Ecology). The Natural Resource Trustees have concluded that the preferred alternative is the partial removal of areas of residual contamination, moderate upland excavation and intertidal filling with protective spits. This alternative best meets the goals and principles of Natural Resource Trustees by maximizing ecological benefits and minimizing potential impacts to the environment.

The environmental review process led us to conclude that this restoration action will not have a significant effect on the human environment. Therefore, an environmental impact statement will not be prepared.

NOAA Administrative Order 216-6 recommends that the Assistant Administrator for Fisheries make the determination for a Finding of No Significant Impact and requests the concurrence and clearance from the NOAA Ecology and Conservation Office. Therefore, I recommend adoption of the EA and a Finding of No Significant Impact (FONSI) determination. I request your concurrence with our recommendation and clearance of this formal submission of the EA and recommended FONSI.

Attachments





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
October 26, 1998

MEMORANDUM FOR: Josph R. Blum,  
Acting Director, Office of Habitat Conservation

FROM: *James P. Burgess*  
James P. Burgess,  
Director NOAA Restoration Center

SUBJECT: Environmental Assessment and Finding of No  
Significant Impact Seaboard Lumber Site Aquatic  
Habitat Restoration Project, Duwamish River,  
Seattle, Washington.

The National Oceanic and Atmospheric Administration (NOAA) as lead agency, the U.S. Fish and Wildlife Service on behalf of the Department of the Interior (DOI), the Muckleshoot Indian Tribe, the Suquamish Tribe of Indians and the State of Washington have completed a Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Seaboard Lumber Site Aquatic Habitat Restoration Project, Duwamish River, Seattle, Washington. The project is proposed under the Elliott Bay/Duwamish Restoration Program (EB/DRP), a cooperative, intergovernmental program established under a Consent Decree to help restore natural resources injured by pollution in Elliott Bay and the Duwamish River.

The EA assembled five restoration alternatives evaluated by representatives from the Natural Resource Agencies (NOAA, USFWS, the Muckleshoot and Suquamish Tribes and the Washington State Department of Ecology). The Natural Resource Trustees have concluded that the preferred alternative is the partial removal of areas of residual contamination, moderate upland excavation and intertidal filling with protective spits. This alternative best meets the goals and principles of Natural Resource Trustees by maximizing ecological benefits and minimizing potential impacts to the environment.

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Attachments





U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

Restoration Center Northwest  
NMFS Northwest Regional Office F/NWO  
7600 Sand Point Way, N.E.  
Seattle Washington 98115-0070

Memorandum For: James Burgess  
Chief, Habitat Research and Restoration Division

From: Dr. Robert C. Clark Jr. *pic*  
Restoration Center NW

Subject: Seaboard Lumber Site Aquatic Habitat Restoration Project  
Environmental Assessment, Seattle, Washington

The National Oceanic and Atmospheric Administration (NOAA), in cooperation with the U.S. Fish and Wildlife Service, has prepared an Environmental Assessment (EA) for the Seaboard Lumber Site Aquatic Habitat Restoration Project in the Duwamish River, Seattle, Washington.

The EA evaluated six alternatives based upon best available technology. The Natural Resource Trustees (NOAA, USFWS, Washington State, and the Suquamish and Muckleshoot Tribes) have concluded that the preferred alternative is the excavation of a new intertidal basin, removal of most of the building foundations, dock, and railroad spur, and the creation of upland habitat around the basin. This alternative best meets the needs of the Trustees' goals and principles by maximizing ecological benefits and minimizing potential negative impacts to the environment.

NOAA Administrative Order 216-6 recommends that the Assistant Administrator make the determination for release of the EA for public review and comment and request the concurrence and clearance of the Ecology and Conservation Office. I hereby request your concurrence with our recommendation to release the EA and formerly submit the EA and accompanying documents to the NOAA Ecology and Conservation Office.

Attachments

Voice (206) 526-4338/4348

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